THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 2988 of 2006

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Oral order:

Petitioner No.1 is working as Senior Messenger while petitioner No.2 is working as Messenger-cum-Roneo Operator with respondent No.2-A.P. Industrial Infrastructure Corporation Limited. Petitioner No.1 claims that he was initially appointed in the Industries Department, and that later he was transferred to respondent No.2 in 1974. The petitioners claim that they being employees in the last grade, as per the provisions of A.P. Public Employment (Regulation of Age of Superannuation) Act, 1984, are entitled to continue in service till they attain the age of 60 years, but the action of respondent No.2 in seeking to retire them on attaining the age of 58 years and rejecting their request for continuance upto 60 years, by following the Staff Regulations, 1974, is illegal and arbitrary. They submit that respondent No.2 has continued one Attender by name Md. Hayath, upto the age of 60 years, but the action of respondent No.2 in not extending the extended period of retirement upto 60 years, is discriminatory.

Respondent No.2 filed counter. The learned Standing Counsel for respondent No.2 reiterating the counter averments submitted that petitioner No.1 was initially appointed as Guard in the construction wing of the Industries Department on temporary/adhoc basis, and to avoid hardship, which may result in discontinuance, it was decided to appoint petitioner No.1 and similarly place employees in respondent No.2 either as Messengers or Watchmen, and all those who were sought to be appointed in respondent No.2, had given their willingness for appointment in respondent No.2 as per the terms and conditions stipulated therein. He submitted that the Government Orders do not automatically apply to respondent No.2, and that insofar as retirement and superannuation of employees of respondent No.2 are concerned, the provisions of APIIC Staff Regulations, 1974, which prescribe 58 years as the age of retirement to all categories of employees, namely Class I to Class IV, are applicable. Insofar as continuance of one Attender, Md. Hayat, it is submitted that he is a government employee, and he having come on deputation to respondent No2, was continued upto 60 years. He thus prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioners and the learned Standing Counsel for respondent No.2.

The petitioners, who are Senior Messenger and Messenger-cum-Roneo Operator, are admittedly, employees of respondent No.2, which is a Corporation. Respondent No.2 not being a Department of the State Government, the petitioners

cannot claim that the Rules that are applicable to State Government employees, are also applicable to them, and more so when it is the specific case of respondent No.2 that the orders issued by the Government in respect of its employees are not automatically applicable to the employees of respondent No.2. Though petitioner No.1 claims that he was originally appointed in the Industries Department, and as such, he is entitled to continue in service upto the age of 60 years, it is the specific case of respondent No.2 that the Government instead of discontinuing the services of petitioner No.1, had decided to give him appointment in respondent No.2, and the petitioner having agreed to be appointed in respondent No.2, accepted the terms and conditions of appointment, and as such, he cannot contend that he is entitled to continue upto 60 years. This apart, it is the case of respondent No.2 that the provisions of A.P. Public Employment (Regulation of Age of Superannuation) Act, 1984, which are applicable to Government employees, are not applicable to the petitioners, and that the petitioners are governed by the Staff Regulations, 1974, which prescribe the age of retirement of all categories of employees, namely Class I to Class IV, as 58 years. When such is the case of respondent No.2, the petitioners being employees of respondent No.2, cannot contend that they are entitled to continue in service upto the age of 60 years. Though the petitioner contend that one Attender by name Md. Hayat, was continued upto the age of 60 years, it is the case of respondent No.2 that Md. Hayat is an employee of the Industries Department, and that he had come on deputation to respondent No.2. Md. Hayat being an employee of the State Government, the petitioners cannot compare themselves with him and contend that they are entitled to continue upto the age of 60 years.

In the above view of the matter, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 26.04.2006

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